Remarks

Indication of the allowability of claim 9 is gratefully acknowledged. Additionally, as discussed in detail below, the Office has agreed that the application describes allowable subject matter in pages 5 and 6 of the specification. Accordingly, applicant has amended the claims to be directed to the subject matter disclosed therein.

Telephone Conference

In a telephone conference on August 21, 2002, the examiner indicated that the inlet baffle as described in the specification pages 5-6, lines 16-27 and 1-9, respectively, describe allowable subject matter. Indication thereof by the examiner is gratefully acknowledged. Accordingly, the claims have been amended to incorporate this subject matter. As set forth in applicant's previous response, and as agreed by the examiner, the amended claims are believed to be allowable over the prior art of record.

Support for the amendments presented herein can at least be found in the specification, drawings and claims. More specifically, support for the amendments can be found on pages 5-6 of the specification, lines 16-27 and 1-9, respectively.

Drawings

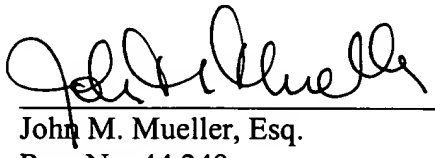
The Office has objected to the drawings as not showing every feature of the invention described in the claims. In particular, the Office has said that the "brackets depending from the sidewall of the tank" to support the outer cap as claimed in claim 9 are not shown. The applicant respectfully disagrees with this assertion by the Office in that the brackets are clearly shown in drawing figure 9 (reference numeral 60) and are referred to specifically as "brackets" on page 6, line 21, of the specification.

Conclusion

For the foregoing reasons, the applicant respectfully submits that all claims are allowable and withdrawal of the rejections of record and issuance of a Notice of Allowance is respectfully requested.

If the examiner wishes to discuss any aspect of this response, please contact the undersigned at the telephone number indicated below.

Respectfully submitted,



John M. Mueller, Esq.
Reg. No. 44,248

THOMPSON HINE LLP
2000 Courthouse Plaza, N.E.
10 West Second Street
Dayton, Ohio 45402-1758
(937) 443-6832

MARKED-UP VERSION OF CLAIMS SHOWING AMENDMENTS HEREIN

IN THE CLAIMS:

Please amend claims 1 and 9 as indicated herein and cancel claims 4, 8 and 10-16 without prejudice.

1. (Twice Amended) A fluid heating tank comprising:

a fluid heating tank laying on its side and having an inlet located in an annular sidewall of said tank at a lower portion of said tank and an outlet located at an upper portion of said tank higher than said inlet; and

a baffle assembly positioned within said tank over said inlet, said baffle assembly comprising:

an inner cap positioned over said inlet including a collar-like base having an inner cover attached to the top portion of said base said [an] inner cover having openings therein to control fluid flow into said tank[,]; and

an outer cap [positioned over said inner cap including an outer cover and] attached to and spaced apart from said inner cap by a spacer, said outer cap having a flange depending downwardly therefrom such that water flowing through said inlet may flow through said openings and impinge against a bottom of said outer cap continuing relatively smoothly along the inside of said flange and out into said tank. [from said outer cover, said inner cap and said outer cap defining a passage for deflecting fluid entering said tank downward and away from said outlet.]

9. (Twice Amended) A fluid heating tank comprising:

a fluid heating tank laying on its side and having an inlet located in an annular sidewall of said tank at a lower portion of said tank and an outlet located at an upper portion of said tank higher than said inlet; and

a baffle assembly positioned within said tank over said inlet, said baffle assembly comprising:

an inner cap positioned over said inlet including a collar-like base having an inner cover attached to the top portion of said base, said inner cover having openings therein to control fluid flow into said tank; and

an outer cap positioned over said inner cap [The fluid heating tank of claim 4] wherein said outer cap is supported by brackets depending from said sidewall of said tank[.], said outer cap having a flange depending downwardly therefrom such that water flowing through said inlet may flow through said openings and impinge against a bottom of said outer cap continuing relatively smoothly along the inside of said flange and out into said tank.